

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeem G. Kelly.

New England Power Pool and  
ISO New England, Inc.

Docket Nos. ER03-1141-004

Maine Public Utilities Commission

EL03-222-004

v.

New England Power Pool and  
ISO New England, Inc.

ORDER GRANTING CLARIFICATION

(Issued January 5, 2005)

1. On December 16, 2004, ISO New England, Inc. (ISO-NE) and the New England Power Pool (NEPOOL) filed a joint motion for clarification of the Commission's December 2, 2004 Order in Docket Nos. ER03-1141-003 and ER03-222-003.<sup>1</sup> In that order, the Commission denied rehearing and granted clarification of an earlier order accepting proposed cost allocation procedures for New England. ISO-NE and NEPOOL seek clarification of the December 2 Order with regard to the cost treatment of planned upgrades in Southwest Connecticut. In this order, the Commission will grant the requested clarification. This order benefits customers by providing further clarity regarding the cost treatment of needed infrastructure upgrades in New England.

**I. Background**

2. In the December 2 Order, the Commission denied rehearing of its December 18, 2003 Order, which approved Transmission Cost Allocation provisions proposed by ISO-NE and NEPOOL to be included in schedule 12 of the NEPOOL Open Access

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<sup>1</sup> *New England Power Pool and ISO New England, Inc.*, 109 FERC ¶ 61,252 (2004) (December 2 Order).

Transmission Tariff (OATT) and denied a complaint advocating an alternative proposal for allocating transmission costs.<sup>2</sup> The December 2 Order granted Central Maine Power Company's request for clarification regarding whether the December 18 Order constituted an order on rehearing in related dockets concerning the allocation of costs for planned Southwest Connecticut transmission upgrades. In granting this clarification, the Commission stated:

Because the Commission has approved the [Transmission Cost Allocation] proposal, including accepting ISO-NE's and NEPOOL's proposal to provide regional support for the costs of the [Southwest Connecticut] upgrades, we find that the appropriate allocation formula for upgrades for [Southwest Connecticut] is, as NEPOOL and ISO-NE have stated, 100 percent regional cost support.<sup>3</sup>

## II. Request for Clarification

3. ISO-NE and NEPOOL jointly request that the Commission clarify its statement in the December 2 Order that "the appropriate allocation formula for upgrades for [Southwest Connecticut] is . . . 100 percent regional cost support."<sup>4</sup> Specifically, they ask that the Commission "make clear that upgrades for [Southwest Connecticut] *are eligible* for 100 percent cost support" as a result of either their status as Regional Transmission Expansion Plan 2002 (RTEP02) Upgrades, or because they are Regional Benefit Upgrades satisfying the criteria for default regional cost allocation under the NEPOOL OATT.<sup>5</sup> They note that RTEP02 Upgrades and Regional Benefit Upgrades are not guaranteed to obtain regional support for all costs, and are subject to "Localized Costs" review under schedule 12C of the NEPOOL OATT. As a result, ISO-NE and NEPOOL seek Commission clarification that the Southwest Connecticut upgrades referred to in the December 2 Order are subject to "Localized Costs" review under schedule 12C, like other RTEP02 and Regional Benefit Upgrades.<sup>6</sup> ISO-NE and

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<sup>2</sup> See *New England Power Pool and ISO New England, Inc.*, 105 FERC ¶ 61,300 (2003) (December 18 Order).

<sup>3</sup> December 2 Order at P 44.

<sup>4</sup> *Id.*

<sup>5</sup> Joint Motion for Clarification of ISO-NE and NEPOOL at 4.

<sup>6</sup> *Id.* at 4-5.

NEPOOL assert that clarification is necessary to ensure that participants in the Commission's January 6, 2005 Technical Conference on Connecticut Transmission Infrastructure who are not fully aware of the prior proceedings will not interpret the December 2 Order as committing to 100 percent regional cost support for the Southwest Connecticut upgrades regardless of whether certain costs are "discretionary or otherwise unreasonable."<sup>7</sup>

### **III. Notice and Responsive Pleadings**

4. By notice issued December 20, 2004, the Commission shortened the period for answering the joint motion for clarification of ISO-NE and NEPOOL to December 27, 2004. The Maine Public Utilities Commission filed an answer in support of the ISO-NE and NEPOOL request. Additionally, the New England Conference of Public Utilities Commissioners (NECPUC) filed a motion to intervene out-of-time for the limited purpose of answering the joint motion for clarification, and filed an answer in support of the joint motion.

### **IV. Discussion**

5. When late intervention is sought after the issuance of a dispositive order, the prejudice to other parties and burden upon the Commission of granting the late intervention may be substantial. Thus, movants bear a higher burden to demonstrate good cause for granting such late intervention.<sup>8</sup> Given the limited nature of NECPUC's intervention, the importance of the issue of cost allocation to the New England region, the broad interests that NECPUC represents, and the lack of burden upon the Commission and other parties in granting the late intervention, the Commission will grant NECPUC's motion to intervene out-of-time for the limited purpose of answering ISO-NE's and NEPOOL's joint motion for clarification.

6. The Commission will grant the requested clarification. As ISO-NE and NEPOOL correctly state, our acceptance in the December 18 Order (and reaffirmation on rehearing in the December 2 Order) of the Transmission Cost Allocation procedures in the NEPOOL OATT included approval of the "Localized Costs" review procedure in schedule 12C. In clarifying the procedural status of requests for rehearing pending in related dockets, the Commission did not intend to rule that planned transmission

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<sup>7</sup> *Id.* at 3-5.

<sup>8</sup> *See, e.g., Midwest Independent Transmission System Operator, Inc.*, 102 FERC ¶ 61,250 at P 7 (2003).

upgrades in Southwest Connecticut would not be subject to the same “Localized Costs” review under the NEPOOL OATT that is applied to all RTEP02 and Regional Benefit Upgrades. Accordingly, the Commission hereby clarifies that the schedule 12C procedures on file in the NEPOOL OATT apply to the planned Southwest Connecticut upgrades.

The Commission orders:

The joint request for clarification of ISO-NE and NEPOOL is hereby granted, as discussed in the body of this order.

By the Commission.

( S E A L )

Linda Mitry,  
Deputy Secretary.